

**REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT AND
REGULATORY SERVICES MANAGER**

TO: BRIERFIELD AND REEDLEY COMMITTEE

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Tree Preservation Order – TPO/NO1/2019 Reedley Grove

PURPOSE OF REPORT

To seek the approval of the Committee in order to confirm the Tree Preservation Order (TPO/NO1/2019 – Reedley Grove).

RECOMMENDATIONS

- (1) Approve and instruct the Principal Environment Officer to confirm the Tree Preservation Order (TPO).
- (2) Consider whether it would be pertinent to place an Order the remaining street trees on Reedley Grove via an amendment should the Order be confirmed.

REASONS FOR RECOMMENDATIONS

- (1) To ensure that the tree is maintained in an appropriate manner and to British Standard BS 3998:2010.
- (2) To ensure that the amenity value of the area and the trees contribution to that amenity value is maintained.

ISSUE

1. In May 2018, I received a phone from Mrs. Siddique stating that the tree outside her house was causing a nuisance and in her opinion dangerous. The nuisance she highlighted was bird droppings and 'sap' falling on their car. She stated that the property had limited parking and they often parked on the road.
2. The tree is a highway tree belonging to Lancashire County Council (LCC).

3. Pendle Borough Council to carry out works to LCC owned trees under the Public Real Agreement.
4. During the phone call Mrs. Siddique was told that LCC would not allow us to carry out works to the tree for the reasons of bird nuisance and 'sap'. However, if the tree was found to be dangerous then appropriate work would be carried out. This is a standard response to all tree-related enquiries and in line with LCC's Highways Management Plan (Extract included in appendix 1).
5. On 24th May 2018 at around 10am the Principal Environment Officer went out and carried out a brief inspection of the tree. The tree is a large sycamore located in the highway between number 6 and 8 Reedley Grove. The tree was found to be in good condition with no apparent health problems and is in nice form. There was some damage to the footpath surface due to roots but this did not present a hazard. The canopy is sufficiently high enough to allow the safe passage of vehicles and pedestrians underneath. The canopy extends over the gardens of the properties. The tree would stand a small crown reduction but this would be merely cosmetic work.
6. During the inspection The Officer spoke to Mrs. Siddique. He told her his findings and that as the budget for tree maintenance was limited that the tree would be put on to his wish list of work as a low priority.
7. On the 29th June 2018 the Council's legal department received a letter from Mr. Siddique claiming that birds had 'dropped something' on his Range Rover Sport breaking the windscreen. The letter was passed over to Lancashire County Council's legal department.
8. On the 25th April 2019, after completing any investigation LCC's Principal Legal Officer responded to Mr. Siddique's claim denying liability. In essence the Legal Officer pointed out the following:
 - The incident of birds causing damage to the car has nothing to do with the health or maintenance of the tree.
 - That the Principal Environment Officer was unaware of any birds that are likely to carry stones and they would only carry nesting material. No nests were observed in the tree at the time of the visit.
 - The claimant could not provide any video evidence or witnessed the damage taking place and discovered the damage on the morning of the 25th June.
 - That honeydew (often referred, wrongly, to as sap) is caused by aphids feeding on leaves, is a natural occurrence and not a defect of the tree.
9. Mr. Siddique responded that he was disappointed with the outcome and asked about undertaking work to the tree either on a shared cost basis or at his own expense.
10. Discussions took place between LCC's Principal Legal Officer, Arboricultural Officer and PBC's Principal Environment Officer. It was decided:
 - That the work requested was still low priority and would do nothing to alleviate Mr. Siddique's issues with the tree.
 - That carrying out the work would result in the tree putting out more growth to compensate for what was removed. In the short term this would exasperate Mr. Siddique's problems of leaf nuisance and honeydew. In addition to this the work would cause the tree to require pruning back on a much more regular basis having cyclic impacts on budgets.

- That a Tree Preservation Order (TPO) be placed on the tree to prevent unauthorised work being carried out.

11. 24th May 2019 the tree was assessed using the Tree Evaluation Method for Preservation Orders (TEMPO) system (see appendix 2). It was found that the tree merits a TPO and as such the Order was created. The Provisional TPO lasts for six months unless it is confirmed. On confirmation the TPO lasts indefinitely until it is withdrawn.

12. In essence the assessment of the tree concluded that the tree:

- Has a high amenity value due to its location and the character of its situation.
- The tree is contemporary to the properties and appears on 1940's aerial photographs of the street.
- The tree contributes to the green infrastructure of the area by forming parts of corridors to adjoining open spaces.

13. An Order prohibits the:

- Cutting down
- Topping
- Lopping
- Uprooting
- Wilful Damage and
- Wilful destruction

of a tree(s) without the Local Planning Authority's written consent.

14. On the 26th June 2019 the Principal Environment Officer received a letter of objection from Mr. Siddique and co-signed by three other people. Other than Mrs. Siddique's initial complaint and the subsequent claim there has been no other complaints received by either LCC or PBC with regard to this tree or others on the street.

15. In the letter Mr. Siddique claims the tree poses a risk to the cars and properties and is affecting boundary walls. No evidence of this has been supplied and no evidence was noted during the initial visit, a visit on the 15th February and the TEMPO assessment on 29th May.

16. The TPO does not prevent Mr. Siddique carrying out maintenance work to the tree. However, he would require the consent of the trees owner (in this case LCC) and apply to PBC for TPO works consent (there is no charge for this).

17. The TPO would protect the tree and make sure that the work carried out is not to the detriment of the trees health or amenity value by the virtue of conditions. For example the conditions could stipulate:

- The amount and type of work undertaken to the tree;
- That the work is carried out by a qualified and insured arborist;
- That the work is carried out to British Standard BS 3998:2010;
- That highway protection is in place when the work is carried out.

18. The TPO would not prevent either LCC or PBC carrying necessary works to the tree under the exceptions to the regulations as statutory undertakers.

19. The other trees on Reedley Grove were not added to the TPO as there is no perceived risk of unauthorised work being carried out to these trees. However, should members wish the Principal Environment Officer would be willing to add the other trees to the Order via an amendment should the Order has been confirmed.

IMPLICATIONS

Policy:

Pendle Local Plan Part 1: Core Strategy

Paragraph 8.9 states:

*'The quality of the local environment is an important part of the borough's identity. The area's built heritage and natural landscapes play an important cultural role and are catalyst for regeneration. **The protection and enhancement of these assets will provide a positive legacy for future generations.**'*

Paragraph 8.17 states:

*'**Increasing and improving woodland, trees and tree cover is a key objective for the borough.** In recognition of the fact that woodland, trees and hedgerows are important habitats for a number of wildlife species, the Council protects a number of trees and areas of woodland through the designation of Tree Preservation Orders (TPOs) and Conservation Areas where it is beneficial to the amenity or special character of an area. These actions will also have a beneficial impact on biodiversity.'*

Paragraph 8.32 states:

'Gardens, tree lined streets and road side verges all contribute to the local amenity and help to connect larger spaces together forming a network of green infrastructure provision. They can also help reduce risk and alleviate other impediments to development by reducing noise, flood risk and soil erosion, improving air quality and helping mitigate against the impacts of climate change by providing carbon storage and shading.'

Financial:

Carrying out unnecessary work to the tree will cause the tree to require cyclic maintenance and subsequent budget expenditure.

Legal:

Tree Preservation Orders are created using the Town and Country Planning (Tree Preservation)(England) Regulations 2019 and Part VIII of the Town and Country Planning Act 1990.

Natural Environment and Rural Communities Act (2006) – requires that in exercising its functions local authorities should have regard for conserving biodiversity.

Risk Management:

The risk management of the tree is the responsibility of the owner. However, the Tree Preservation Order will prevent unauthorised works taking place that could have a detriment on the health of the tree and creating possible hazards to the highway.

Health and Safety:

None.

Sustainability:

Street trees contribute to the capture of carbon dioxide from the atmosphere, prevent particular matter pollutants from reaching properties, alleviate flood risk and assist with urban cooling.

Community Safety:

None

Equality and Diversity:

None.

APPENDICES

Appendix 1 – Extract from LCC Highways Management Plan 2018

Appendix 2 – TEMPO Evaluation

Appendix 3 – Photographs

Appendix 4 – Tree Preservation Order

LIST OF BACKGROUND PAPERS